

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

September 3, 2002

RESPONSIBLE STAFF:

Frederick J. Felton
Assistant City Manager

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
X	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Held	
Record Held Open	
Policy Discussion	

TITLE:

Resolution of The Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding with the Montgomery County Government On Development Impact Taxes

SUPPORTING BACKGROUND:

On March 12, 2002, the Montgomery County Council enacted Bill No. 47-01 "Development Impact Tax – Amendments". This Bill was subsequently signed by the County Executive.

Pursuant to Section 52-49 of the Impact Tax Bill, funds collected from development in the major municipalities must be accounted for separately and may only be used to fund transportation improvements listed in a Memorandum of Understanding between the County and the respective City.

Staff has negotiated the attached agreement that provides seven projects on which impact taxes collected in Gaithersburg may be spent. (See section 1 of the attached draft Memorandum of Understanding)

In staff's opinion, this agreement is in the City's best interests given the constraints of Bill No. 47-01. After this MOU is agreed to by both parties, the County Chief Administrative Officer and the City Manager will need to negotiate and adopt a separate implementation agreement.

DESIRED OUTCOME:

Approve Resolution

Resolution No. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY
MANAGER TO NEGOTIATE AND EXECUTE A MEMORANDUM
OF UNDERSTANDING WITH THE MONTGOMERY COUNTY
GOVERNMENT ON DEVELOPMENT IMPACT TAXES

WHEREAS, the Montgomery County Council enacted Bill No. 47-01
"Development Impact Tax – Amendments" on March 12, 2002; and

WHEREAS, this bill requires developers to pay an impact tax to the County on
most new residential, commercial, and industrial development within the City of
Gaithersburg; and

WHEREAS, Section 52-49 (e) mandates that funds collected from development
in the major municipalities must be accounted for separately, and may only be used to
fund transportation improvements listed in a Memorandum of Understanding between
the County and the respective City; and

WHEREAS, the Mayor and City Council have determined that the transportation
improvements in the attached draft Memorandum of Understanding are in the best
interests of the citizens of Gaithersburg;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of
Gaithersburg that the City Manager be and hereby is authorized to negotiate and
execute a Memorandum of Understanding with Montgomery County on the use of
funds collected on development in the City of Gaithersburg by the County Impact Tax.

ADOPTED by the Mayor and City Council this 3rd day of September, 2002.

SIDNEY A. KATZ, Mayor and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City Council
in public meeting assembled on the 3rd day
of September, 2002.

David B. Humpton, City Manager

MEMORANDUM of UNDERSTANDING
Development Impact Taxes

THIS MEMORANDUM OF UNDERSTANDING (the "MOU"), is made and entered into this _____ day of _____, 2002, and is effective from and after the date of the last signature on the signature page, by and among the City of Gaithersburg ("City"), an incorporated municipality in Montgomery County, in the State of Maryland, and Montgomery County, Maryland, a body corporate and politic ("County").

WITNESSETH:

WHEREAS, On March 12, 2002, and effective July 1, 2002, the Montgomery County Council enacted Amendments to the Development Impact Tax, Article VII, Chapter 52, of the Montgomery County Code ("Impact Tax Law"), establishing a fourth impact tax district encompassing the Cities of Gaithersburg and Rockville, as well as the entire County.

WHEREAS, the newly-adopted amendments provide for separate accounting of development impact taxes collected from developments located in the cities of Gaithersburg and Rockville, as well as provisions for, in certain instances, refunds and credits.

WHEREAS, tax revenues collected from, and separately accounted for, the respective municipalities, must be used to fund transportation improvements listed in an MOU between the County and the City, and approved by the Montgomery County Council.

WHEREAS, it is the intent of the County to further the public purpose of ensuring that an adequate transportation system is available in support of new development.

WHEREAS, the City recognizes the need to fund transportation improvements within City limits to support growth and development.

WHEREAS, as provided for in the Impact Tax Law, the City shall enter into an MOU with the County, which shall include a list of transportation improvements for priority funding with Impact Tax revenues collected from developments within the City limits.

WHEREAS, the Mayor and City Council have therefore resolved that the City Manager is hereby authorized to enter into an MOU for the purposes expressly written above on behalf of the City with the County.

NOW, THEREFORE, in consideration of the above and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1) In accordance with the provisions of Section 52-49(e) of the Montgomery County Code, the parties hereto agree that development impact taxes collected from developments located in the City must only be used to fund the following transportation improvements:

a) MD 355 – Median Improvement Plan CIP 99-1 – This project will fund a variety of projects, some of which evolved from the 1998 Frederick Avenue Design charrette. The addition of a median along MD 355 between Brooks Avenue and Odend'hal Avenue as well as landscaping for the existing medians and designs for improving the appearance of bridges/overpasses along MD 355.

b) Sidewalk construction along MD 124 (NIST side) between Great Seneca Highway and Clopper Road..

c) Watkins Mill Road Extended (MD 117 to MD 355) excluding bridge over I-270. Construct portions of Watkins Mill Road Ext. in vicinity of new interchange with I-270.

d) N. Summit/E. Diamond Ave. Intersection Improvement.

e) Girard St/Victory Farm Dr. Roundabout.

f) MD 124/Quince Orchard Blvd. Intersection Improvement.

g) Watkins Mill Rd./Russell Ave. Intersection Improvement

2) Impact taxes collected within the City shall be appropriated or otherwise formally designated for the above-listed projects as impact tax revenues become available, in accordance with the Impact Tax Law, and in all instances, by the end of the sixth fiscal year after the tax is collected.

3) The Chief Administrative Officer of Montgomery County and the City Manager of Gaithersburg area authorized to execute such further documents and agreements that they determine to be necessary to implement this MOU and the Impact Tax Law.

4) This MOU shall be considered for amendments as proposed by either party, from time to time.

IN WITNESS WHEREOF, the CITY OF GAITHERSBURG and the COUNTY have executed and sealed this MOU as of the date first written above.

WITNESS:

CITY OF GAITHERSBURG, MARYLAND,
a municipal corporation

By: _____

WITNESS:

COUNTY OF MONTGOMERY, MD,
a charter county

By: _____

itaxmou

Implementation Agreement Elements

- A) Building Permit Issuance Process
 - (City) Developer applies for permit from City
 - City, utilizing DPS i-tax calculation sheet, calculates total taxes
 - Developer pays total i-tax due to DPS
 - DPS issues receipt of i-tax payment to Developer
 - Developer submits i-tax payment receipt to City
 - City issues or denies permits to Developer
- B) Municipality Boundaries
 - * City to notify County DIST of any annexation
- C) Report – Status of Funds Collected
 - Prepare and submit report to City no later than March 1
 - Report to include summary of revenue collected in previous year
- D) Reimbursement of funds to Cities
 - City submits funding reimbursement request in writing
 - DPWT reviews and responds within 45 days
- E) Dispute/Resolution
 - City will petition DPWT Director for resolution
 - City may appeal DPWT decision to CAO
- F) Equivalency Language
 - * Agreement to include subdivision and program(s) terms utilized by the City